

3-A)

**CITY OF VERO BEACH, FLORIDA  
NOVEMBER 17, 2015 6:00 P.M.  
REGULAR CITY COUNCIL MINUTES  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Pastor Michael York of First Presbyterian Church, followed by the Pledge of Allegiance to the flag.

At this time, Mayor Kramer changed the seating arrangements on the dais. The new seating from right to left is Councilmember Howle, Councilmember Turner, Mayor Kramer, Vice Mayor Old and Councilmember Winger.

**1. CALL TO ORDER**

**A. Roll Call**

Mayor Jay Kramer, present; Vice Mayor Randy Old, present; Councilmember Pilar Turner, present; Councilmember Richard Winger, present and Councilmember Harry Howle, present **Also Present:** James O'Connor, City Manager; Wayne Coment, City Attorney and Tammy Vock, City Clerk

**2. PRELIMINARY MATTERS**

**A. Agenda Additions, Deletions, and Adoption**

Mr. Winger made a motion to adopt the agenda as presented. Mrs. Turner seconded the motion and it passed unanimously.

**B. Proclamations**

None

**C. Public Comment**

Mrs. Shotsi Lajoie commented that the Rowing Club has an item on the consent agenda, but she wanted Council to know that there was a celebrity in the audience tonight and that was Mr. Joe Long who participated in the 1964 Olympics.

Mr. Dan Lamson, Executive Director of the Indian River Neighborhood Association (IRNA), read a prepared statement (please see attached) stating that the IRNA feels that a vision plan should be developed for the eventual use of the City-owned property located at the intersection of Indian River Boulevard, the Alma Lee Loy Bridge and 17<sup>th</sup> Street, currently occupied by the Vero Beach Electric Utility, the Vero Beach Water Treatment Plant and the vacant property formerly occupied by the Post Office annex.

Mr. Mark Mucher suggested to the new City Council that they take this opportunity and "put to death" further investment in FMPA's proposed solar project.

Mr. Old who serves as the City's liaison on the FMPA explained that the solar project is being looked at by FMPA and he is recommending that the Utilities Commission bring to Council a recommendation on it.

### 3. CONSENT AGENDA

1. **Regular City Council Minutes – November 3, 2015**
2. **Responder Outage Management System (OMS) Implementation**
3. **Lease Agreement by and between City of Vero Beach, Florida and Indian River Rowing Club, Inc.**
4. **Lease Agreement by and between City of Vero Beach, Florida and Vero Beach Power Squadron, Inc. (with Memorandum of Lease)**

Mayor Kramer asked Council if they wished to pull any items off of the consent agenda. With no one wishing to pull any items off, he asked for public comments.

Mr. Ken Daige stated that he wanted to discuss the lease agreement between the City of Vero Beach and Indian River Rowing Club. He provided a handout (please see attached), which he read to Council.

Mayor Kramer pulled item 3-3) Lease agreement by and between City of Vero Beach, Florida and Indian River Rowing Club, Inc. off of the consent agenda.

Mr. Winger made a motion to adopt the remaining items on the consent agenda. Mrs. Turner seconded the motion and it passed unanimously.

Mr. Mucher supported item 3-2) on the consent agenda, which referred to the Responder Outage Management System (OMS) Implementation. He said that he lives in the Central Beach area and there have been repeated outages over the last month and he would support having this management system in place.

Mrs. Lajoie addressed Mr. Daige's concerns. She said that the Rowing Club's 501 c-3 status is based on the community rowing clubs in the United States. The membership fees that they charge are similar to existing community rowing programs in private clubs. She said private clubs have a different fee structure. She said their club is not private and is open to anyone that wants to row. The cost of their club has to be funded by the people that use it. They hope to be able to offer operational grants down the road at reduced fees, which is one of their long term goals, but they do not have in place right now. One of Mr. Daige's concerns was that the proposed lease does not follow the spirit of the 2014 referendum that protects public lands in the City Charter. Mrs. Lajoie said that she did not know much about the referendum. She went on to Mr. Daige's next point, which was that "it could be reasonably discussed that Indian River County has more land available for recreation use." She was not sure what that meant. The next item on Mr. Daige's list is that there is no requirement from the City to approve or enable this private club

concept. She expressed that this is not a private club, it is a community rowing facility and their model is based on community programs.

Mr. Winger asked Mrs. Lajoie if there was a possibility like with Youth Sailing and some of the other clubs that people will be allowed to participate without paying anything.

Mrs. Lajoie answered yes. She said mostly it would be for youths and adaptive (handicap, special needs) rowers.

Mr. Winger explained that with Youth Sailing allows any high school student to participate in their program without being charged. He said there are a lot of people in the community who cannot afford to pay anything. He asked what the charge is for a young person to row.

Mrs. Lajoie stated that it was around \$1,300.

Mr. Winger commented that was not acceptable to him. He said there must be some provision in the lease document that provides where there could be gratis for those disadvantaged.

Mrs. Lajoie explained that they (Rowing Club) do reach out to the Boys and Girls Club and have programs in place where they have invited people to come row for free, which is a part of introducing people to the sport of rowing. She said they need a facility in order to offer outreach programs. She said they have taught rowing to children and adults free of cost and she does not think that their model was going to change.

Mr. Winger said that the cost of \$1,300 shocks him. He said there are many people that cannot afford that.

Mr. Gary Mara, Director of the Rowing Club, explained that the \$1,300 is for anyone that wants to participate for a year on their competitive rowing team. He said this is the team that travels and competes and has regular coaching five (5) days a week. He said this requires a great deal of resources and this fee just covers costs and they are not making any money off of it. He said for a youth membership it is a cost of \$200. They do allow any youth in the area to come out and try rowing for free for two (2) weeks, in addition this past fall they partnered with Youth Guidance and allowed disadvantaged people to participate in free weekly rowing. They have also discussed with Youth Guidance the possibility of adding youth rowing scholarships.

Mr. Winger reiterated that with Youth Sailing they allow students to participate and there is no charge. He said the \$1,300 bothers him less than the \$200 because this is public land and there should be provisions in whatever they do so the public has use or access for those that are disadvantaged.

Ms. Annabell Roberts, Executive Director of Harvest Food Outreach, said she felt that scholarships being offered for disadvantaged youths in this program would be a tremendous benefit to this community and is being looked at.

Mrs. Lajoie continued by saying there are a lot of infrastructure issues being looked at. She said there are also a lot of transportation issues in getting their youths back and forth to the boathouse in order to access the sport. These things, as well as offering scholarships are being looked at.

Mrs. Turner asked Mrs. Lajoie how many times her organization has been before the Recreation Commission and the Marine Commission. She understands Council has received approval from both of these Commissions to move forward.

Mrs. Lajoie briefly went over the many times the Rowing Club has gone before the different Commissions and the Council. She was also asked to speak to the Ambulance Squadron, which she did and provided them with a copy of the proposed lease.

Mrs. Lajoie continued going through the rest of Mr. Daige's concerns. She said that the general public is allowed to use their dock at no cost. They do not have any problem with people throwing their nets off of the dock. However, she said they would not have any cleats on their dock. She brought up that the Museum of Art and expressed that the Museum charges a membership fee, as well as a fee for classes they offer. Mr. Daige's next concern was it was unclear that Indian River Drive East would be blocked to Park users. Mrs. Lajoie did not see that as a problem. She said the biggest concern she saw in Mr. Daige's memo was the private club concept and in the event that they don't have the school rowing program what will happen is there will need to be a boat club. She is happy that this sport is in Indian River County.

Mr. Winger stated that he thinks rowing is a great sport. He said one of the things as Public Officials that they are charged with is making sure that something is right for everyone. He referred to the lease on page 2 (a) Limitations and Conditions on Use, which he read. He said his problem is this lease in no way says that the dockage is going to be available to the public. He said the Rowing Club should have first call for using the dock, but there needs to be something in the lease that allows the public to also be able to use it.

Mrs. Lajoie was confused that Mr. Winger was bringing this matter up at this time.

Mr. Winger recalled when the lease came to Council the first time he said that it needed to go back and be fully vetted. He still sees a problem with the lease in that the Rowing Club could put up a sign saying that no one is allowed on the dock, which would be allowed under this lease. He expressed that this is public property and he wanted to see some minor tweaks in the wording to make it clear that this is public property for public use. The interest of the general public who owns this property must be protected, just like the Dog Park where anyone that wants to use the Dog Park can.

Mrs. Lajoie recalled that when drafting this lease agreement they talked about the public use of the dock.

Mr. Wayne Coment, City Attorney, stated they could include wording in this lease similar to what they have in the Dog Park lease. It would make it clear that the public can still use the dock.

Mr. Winger stated that was all he was asking for. He wanted to see the wording in the lease similar to what they have in the Dog Park lease that the public can use the dock.

Mr. John Kassidine (spelling may not be correct) commented that Council has had this material in front of them and they should have asked these questions before now. He said the questions being raised are ridiculous.

Mr. Winger told Mr. Kassidine that this is the first time he has had a chance to comment on the lease.

Mr. Kassidine told Council that the Rowing Club needs their help and not their harassment.

Mrs. Turner commented that Riverside Theater and the Museum of Art both sit on public property and have the ability to close their doors to protect their assets and limit access from the public. She does not see an issue here. The Rowing Club has gone through all of the hoops and spoke to the City's different Commissions on numerous occasions. She recalled the lease was brought to Council before the election was held and pulled off of the agenda and sent back to the Recreation and Marine Commission for further vetting. She said the Rowing Club deserves to have this lease voted on by the City Council.

Mr. Todd Young, President of the Rowing Club, stated that there are two separate documents that they are discussing. He said one is for the lease and the other is for the dock. He asked that they could vote on the lease on the property in order to move forward. He has an issue with letting everyone use the dock wondering who would clean-up after the people using the dock.

Mrs. Lajoie suggested adding additional language to the dock lease and voting on it. She has no problem identifying the dock area and making sure the public can use it.

Mr. Daige thanked Mrs. Lajoie for answering some of his questions. He said it was brought up in one of the meetings that he attended that the floating dock would be open to the public, providing that it doesn't interfere with the rowing people. The points he made are because the City Council is the gate keepers for the City of Vero Beach and public lands. He said all nonprofit groups have very good causes and what the public is looking for is that their open space stays open. He said there is not that much open space left in the City that the general public can use at no cost. He felt that the Dog Park had a premier lease where they did have to jump through a lot of hoops and should be the

model lease used. He said the Rowing Club lease is for 25 years and if something is not documented in the lease then it won't happen.

Mr. Winger asked Mr. Daige what would make this satisfactory to him.

Mr. Daige commented that his questions on the dock situation have been answered. Also, it sounds like if someone wants to come out and row and can't afford it that this organization will make it happen. He recommended to the Rowing Club that they include their model with the lease. This way it shows that the Rowing Club is reaching out to the whole community.

Mr. Kassidine stated that he came to Vero Beach seven (7) years ago and lives about a mile from the Park. They have tried to get a Rowing Club there, but the powers to be said there was not enough room to have both a Rowing Club and Dog Park. He felt that this was an air tight lease and this organization was not trying to cut anyone off. He said it does take money to run a rowing club. He suggested that they call the question and vote on the lease tonight as is.

Mrs. Turner made a motion to approve the lease as submitted. Mr. Howle seconded the motion.

Mr. Winger made an amendment to the affect that either the facilities or the dockage that the tenant have first right and when not in use make it available for the general public. Mr. Old seconded the amendment.

Mr. James O'Connor, City Manager, asked if the Rowing Club opens this up for the public who is going to maintain it. He wants to make sure that the tenant is responsible for the property.

Mr. Winger explained that the Dog Park people are responsible for their property even though anyone can use the land. Mr. O'Connor said they also have the right to exclude people.

Mrs. Turner commented that with the Dog Park they are talking about land and maybe a few benches. With the Rowing Club they are talking about a building and a floating dock that is quite costly to install and maintain.

Mr. O'Connor stated that he did not want to see the City as a responsible party, which is the way the lease was drawn up. He has no problem offering it to the public, but does not want to be the ones cleaning it up.

Mrs. Turner agreed if they start making further refinements in the area it could start imposing on the City as far as maintenance goes.

The verbiage on how the lease should read was discussed.

Mr. Winger said it would be satisfactory to him to add the verbiage for the dock, which would read; *The Dock Lease Area portion of the Premises as depicted in Exhibit "B" shall be open to the public without charge when not in use by Tenant.* He rescinded his first amendment to add the new amendment including this wording. Mr. Old seconded the new amendment.

Mrs. Lajoie was fine with this wording.

Mr. Coment said if the Rowing Club needs the dock for their activities they would be able to exclude people from using the dock at that time.

Mr. Young asked about liability. Mr. Coment said that the Rowing Club would be responsible to provide indemnification and insurance. He said as the tenant they are responsible for the liability.

The amendment to the motion in adding the additional language passed 4-1 with Mrs. Turner voting no.

The motion to approve the lease in its entirety passed unanimously.

#### 4. PUBLIC HEARINGS

- A) **A Resolution of the City Council of the City of Vero Beach, Florida, determining that certain City-owned real property comprising + 35.24 acres located South of 26<sup>th</sup> Street and East of 43<sup>rd</sup> Avenue, commonly referred to as the "Dodgertown Golf Course," is no longer needed by the City and authorizing the City Manager to offer said real property for sale; Providing for Conflict and Severability; and Providing for an Effective Date – Requested by the City Council**

Mrs. Tammy Vock, City Clerk, read the Resolution by title only.

Mr. O'Connor went over the process that the City will follow if this Resolution passes. He said he would put out an RFQ for a real estate agent to help them market and sell the property. He said they would go through a selection process and bring the recommended selection to City Council for their approval. Then they would hire a real estate firm. He said it is not in the City's nature to sell real estate.

Mrs. Turner concurred with getting professional help and realizing that the real estate business was not their expertise.

Mr. Winger commented that he didn't know if they necessarily wanted to sell this piece of property for the highest price, it should be a combination of the best use and highest price.

Mr. O'Connor explained that anyone that is interested in the property needs to realize that whatever they want to use it for needs to fall in the proper zoning. He does not want to limit the market, but be able to review what is being proposed.

Mr. Old questioned how they will decide if they receive two or three bids that are real close, but for completely different uses.

Mr. O'Connor commented that in this particular case the price being paid is the driven force. It is unlike the Old Diesel Plant where they would want some usage to go in that spot that would conform to the downtown area. The bottom line is that Council would have the right to accept or reject the offer. The County also will be allowed to review the proposal and give their input.

Mr. Kramer asked what the timeline on this is.

Mr. O'Connor guessed it would take approximately 30 days to get a professional on board. Then they would want to do a 45-day due diligence when putting the property out on the market. So they would probably be looking at the first part of February.

Mr. Howle asked if the agency that is selected to sell the property will receive a commission and what is the typical commission on a transaction such as this one.

Mr. O'Connor said a standard market transaction could be anywhere from 5% to 7%.

Mr. Coment added that is one of the questions they will be asking in the proposal, what commission will someone be asking for.

Mayor Winger opened the public hearing at 6:56 p.m.

Mr. Ken Daige asked how much is due on the property right now.

Mr. O'Connor explained between \$5 to \$6 million is owed on the property and it is only worth \$3 million in today's market.

Mr. Daige commented that in the event the property sells for less than \$3 million, the rest of the money owed will be picked up by the taxpayers. Mr. O'Connor explained that the one-cent sales tax is picking up the total costs. He said whatever they can get for the property will offset this expense and free up money for capital expenditures. Mr. Daige asked what the current zoning on the property is.

Mr. Tim McGarry, Planning and Development Director, stated that it was one of the commercial zonings used at the Airport.

Mr. Daige agreed that with some of the restrictions lifted the land could be a little more valuable. He said commercial zoning means there could be a hotel.

Mayor Kramer closed the public hearing at 6:58 p.m., with no one else wishing to be heard.

Mr. Winger made a motion to approve the Resolution. Mr. Old seconded the motion and it passed 5-0 with Mr. Howle voting yes, Mr. Winger yes, Mrs. Turner yes, Mr. Old yes, and Mayor Kramer yes.

**B) An Ordinance of the City of Vero Beach, Florida, Requested by Camp Haven, Inc. amending the Official Zoning Map by changing the Zoning District Designation of C-1B, General Commercial Trades & Services District, to C-1, Highway Oriented Commercial District, for property located at 3256 US Highway #1, in the R.D. Carter Subdivision, containing 0.95 of an acre, more or less; Providing for an Effective Date. – Requested by the Planning and Development Director**

Mrs. Vock read the Ordinance by title only.

Mayor Kramer noted that this is a quasi-judicial hearing and he would be following the procedures in holding a quasi-judicial hearing. He disclosed that he has talked to the people at Camp Haven about this rezoning.

Mrs. Turner disclosed that she has visited the site.

The City Clerk swore in anyone testifying at tonight's meeting en masse.

Mr. McGarry reported that there are existing structures on the site including the former Citrus Motel, which is currently used as a transitional homeless shelter (Camp Haven). Directly abutting the property to the south and across 33<sup>rd</sup> Street to the north are properties that include various commercial uses and are zoned C-1B, General Commercial Trades and Services. The property is located within the City's electric, water and sewer service areas. Capacity is available in all these systems to support the proposed change in the zoning designation and the allowable uses. The property has road frontage along US Highway #1 to the west and 33<sup>rd</sup> Street to the north. The comparison of the existing (C-1B) and proposed zoning (C-1) indicates the proposed zoning would allow additional commercial uses. Staff has reviewed this and finds that the requested change in the zoning designation is consistent with the public's interest and in harmony with the intent of the Land Development Regulations. He said staff and the Planning and Zoning Board approved submittal of this Ordinance to the City Council for favorable consideration and recommended amending the Official Zoning Map for the property from C-1B to C-1.

Mr. Clint Rodgers, Engineer for Carter Associates, was at tonight's meeting if Council had any questions.

Mayor Kramer opened and closed the public hearing at 7:06 p.m., with no one wishing to be heard.

Mr. Winger made a motion that based on the competent substantial evidence presented and the applicable code provisions that they adopt the Ordinance as proposed. Mrs. Turner seconded the motion and it passed 5-0 with Mr. Howle voting yes, Mr. Winger yes, Mrs. Turner yes, Mr. Old yes, and Mayor Kramer yes.

- C) **An Ordinance of the City of Vero Beach, Florida, Abandoning the 10 foot alley lying and adjacent to and between Lots 14 and 15, Block 35, Map of the Town of Indian River (Original Town), as recorded in Plat Book 2, Page 12, of the Public Records of St. Lucie County, Florida, said lands now lying and being in Indian River County, Florida; retaining a Utility Easement; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Public Works Director**

Mrs. Vock read the Ordinance by title only.

Mr. O'Connor reported the City received an application for abandonment of the 10 foot alley lying west of the Pocahontas Building between Lots 14 & 15. The owners of the Pocahontas Building and the adjacent vacant lot are requesting abandonment of the alley so they can remedy drainage problems at the historic Pocahontas Building, as well as develop the property to the west of the alley for parking. He would recommend approval of the abandonment of that portion of the 10 foot alley.

Mayor Kramer opened and closed the public hearing at 7:08 p.m., with no one wishing to be heard.

Mrs. Turner commented in the backup material it indicated that improvements were required in the parking areas west of the alley. She asked if that was what was being required.

Mr. Monte Falls, Public Works Director, explained that the property owner owns both sides of the alley and they were using the vacant property to the west of the alley for a parking lot. As a condition, the Planning and Development Department wanted them to move that into site plan compliance, which is what they have started doing.

Mrs. Turner made a motion to approve the Ordinance. Mr. Winger seconded the motion and it passed 5-0 with Mr. Howle voting yes, Mr. Winger yes, Mrs. Turner yes, Mr. Old yes, and Mayor Kramer yes.

- D) **An Ordinance of the City of Vero Beach, Florida, related to the Budget for the City of Vero Beach, Florida, for the period beginning October 1, 2014 and ending September 30, 2015; Providing and Establishing Revisions to said Budget based on Revised Revenue, Expenditure and Transfer Estimates; Providing for an Effective Date. – Requested by the Finance Director**

Mrs. Vock read the Ordinance by title only.

Mr. O'Connor reported that this Ordinance is the proposed first and final amendment to the Fiscal Year 2014-2015 budget. The Ordinance has been reviewed by the Finance Commission and they recommended approval.

Mrs. Turner commended Mr. O'Connor, Mrs. Lawson, and the City Department Heads for keeping a close rein on their budget and ending the year with a \$463,000 balance.

Mr. Winger asked Mr. O'Connor when Council will see the work that was done at the same meeting concerning the reserves.

Mr. O'Connor said as soon as the Finance Commission finishes tweaking it.

Mayor Kramer opened and closed the public hearing at 7:11 p.m., with no one wishing to be heard.

Mr. Old made a motion to approve the Ordinance. Mrs. Turner seconded the motion and it passed 5-0 with Mr. Howle voting yes, Mr. Winger yes, Mrs. Turner yes, Mr. Old yes, and Mayor Kramer yes.

**Public Hearings held on November 17, 2015 and January 5, 2016**

- E) An Ordinance of the City of Vero Beach, Florida, Amending Chapter 62, Article III, C-1A, C-1B, B-1, and C-1 Commercial Districts, and Article X, Downtown District, of Part III, Land Development Regulations, in the Code of the City of Vero Beach, to Provide for Government Use as a Permitted Use; Providing for Codification; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Planning and Development Director**

Mrs. Vock read the Ordinance by title only.

Mr. McGarry reported that by passing this Ordinance it provides a "quick fix" to an immediate problem, which in the long term needs to be addressed in a comprehensive revision the City's zoning districts, and definitions of these uses. The Planning and Zoning Board unanimously recommended approval of the Ordinance.

Mayor Kramer opened and closed the public hearing at 7:15 p.m., with no one wishing to be heard.

Mr. Old asked where they were with the revisions to the Comprehensive Plan.

Mr. McGarry commented that they were making steady progress on it. He did not think that they would meet the February deadline. He said they were almost finished with the existing conditions and then will start on the Land Uses, which is the most important part of the whole document. His guess was that the Comprehensive Plan would be complete by the spring of next year.

Mrs. Turner made a motion to set the second public hearing on this Ordinance for January 5, 2016. Mr. Winger seconded the motion and it passed 5-0 with Mr. Howle voting yes, Mr. Winger yes, Mrs. Turner yes, Mr. Old yes, and Mayor Kramer yes.

**5. RESOLUTIONS**

- A) A Resolution of the City Council of the City of Vero Beach, Indian River County, Florida, expressing opposition to Seismic Airgun Testing and Offshore Drilling in the Atlantic Ocean; Providing for an Effective Date. – Requested by the City Council**

Mrs. Vock read the Resolution by title only.

Mayor Kramer opened and closed the public hearing at 7:16 p.m., with no one wishing to be heard.

Mr. Winger made a motion to adopt the Resolution. Mr. Old seconded the motion and it passed 5-0 with Mr. Howle voting yes, Mr. Winger yes, Mrs. Turner yes, Mr. Old yes, and Mayor Kramer yes.

**6. PUBLIC NOTICE ITEMS**

None

**7. CITY CLERK'S MATTERS**

- A) City Council Committee Appointments**

The City Council went through each of the committee appointments and selected who would serve on each of the committees.

**1. TREASURE COAST COUNCIL OF LOCAL GOVERNMENTS**

Councilmember Richard Winger  
Councilmember Pilar Turner, Alternate Member

**2. TREASURE COAST REGIONAL PLANNING COUNCIL**

Vice Mayor Randy Old

**3. COUNTY ECONOMIC DEVELOPMENT COUNCIL (EDC)**

Mayor Jay Kramer

**4. TOURIST DEVELOPMENT COUNCIL**

Councilmember Harry Howle

**5. METROPOLITAN PLANNING ORGANIZATION (MPO)**

Mayor Jay Kramer, Councilmember Pilar Turner, and Alternate Member Randy Old

**6. TREASURE COAST LEAGUE OF CITIES**

Mayor Jay Kramer

**7. BEACH AND SHORE PRESERVATION ADVISORY COMMITTEE**

Councilmember Richard Winger  
Vice Mayor Randy Old, Alternate Member

**8. ELECTED OFFICIALS OVERSIGHT COMMITTEE**

Mayor Jay Kramer

**9. ENTERPRISE ZONE DEVELOPMENT AGENCY**

Councilmember Harry Howle

**10. COUNTY AFFORDABLE HOUSING ADVISORY COMMITTEE (AHAC)**

Councilmember Richard Winger

**11. REPRESENTATIVE ON FMPA**

Mr. Old stated that he would like to step down from being the liaison on the FMPA. He suggested that Mr. O'Connor be their Representative and serve on the FMPA.

Mrs. Turner commented that she would be glad to serve on the FMPA. She thought it was important that they have an Elected Official who is accountable to the ratepayers as a voting member on the FMPA.

Mr. Howle nominated Mrs. Turner to serve on the FMPA.

Mr. Old nominated Mr. O'Connor to serve on the FMPA. He said one of the problems he had as being an Elected Official and serving on this Agency was that he did not know that much about it and after studying hard you really don't understand enough in being able to be the leader. He said he could understand the business aspects of it, but more experience is needed and Mr. O'Connor has a lot of experience in utilities and has served on this Agency in the past.

Mr. Winger asked Mr. O'Connor when he served on the FMMPA.

Mr. O'Connor said about 25 years ago.

Mrs. Turner stated that she has served three (3) years on the FMMPA, and is a Civil Engineer. She noted that the three (3) years she served on the FMMPA, the majority of the issues were not technical. The issues range from financial, risk, selecting an auditor, etc. She said this is an organization that is using public funds and that for accountability and transparency an Elected Official should serve on this Agency.

Mayor Kramer commented after hearing Mrs. Turner's comments that it sounds like a banker should be serving on the FMMPA. He nominated Mr. Old to serve on the FMMPA.

Mr. Howle said that his nomination still stands for Mrs. Turner.

Mr. Winger seconded Mayor Kramer's nomination for Mr. Old to serve on the FMMPA. He felt that Mr. Old has done a good job in serving on the Agency.

Mr. Old noted that he has some issues that he is worried about and would like to see happen. He would like to see FMMPA look at management. They have a consultant coming in to talk to them about issues they have had in the past and he would like to see them look at the way the Agency is managed. However, he does not see himself serving on this Agency for a long time because he just doesn't see the progress that he would like to see being made. If it is the consensus of Council that he remain as a member on the Agency then he would, but he doesn't want to do it forever.

Mrs. Turner understood that she was just voted out of not being the FMMPA Representative even after she volunteered to serve on the Agency.

#### **11. LIAISON TO DOWNTOWN MAINSTREET**

Mayor Jay Kramer  
Councilmember Harry Howle, Alternate Member

#### **12. LIAISON TO CULTURAL ARTS**

Councilmember Richard Winger

#### **13. LIAISON TO THE CHAMBER OF COMMERCE**

Councilmember Pilar Turner

#### **14. FLORIDA LEAGUE OF CITIES (FLOC) ENERGY, ENVIRONMENT AND NATURAL RESOURCES COMMITTEE**

Councilmember Richard Winger

Mrs. Vock mentioned that Mr. Old selected Mr. Nathan Polackwich as his appointment to the Finance Commission. She said that she was still working on setting up a Special Call meeting to discuss the Charter Officer's goals.

Mrs. Turner requested that when the deadline for the Council agenda closes on an earlier date that the Council be notified.

Mrs. Vock appreciated Mrs. Turner bringing that up and said that the next Council agenda will close a day earlier than usual (Tuesday, November 25<sup>th</sup>) because of the Thanksgiving Holiday.

## **8. CITY MANAGER'S MATTERS**

Mrs. Turner commented that they received a memo concerning the Vero Isles grant, to accept it and bring it forward as a budget amendment to Council.

Mr. O'Connor explained as long as they don't spend any money the Council is not obligated at any point. He said he would be bringing forth an amendment and the only money available for an amendment would have to come out of the reserves. He said they could always turn down the grant money and reapply again. He said they would be looking at around \$500,000 for the matching grant.

Mrs. Turner was looking at the \$463,000 carryover from the 2014-2015 budget to cover the costs.

Mr. O'Connor mentioned that there were a couple of different grants that are coming up. He said he was trying to get the reserve policy completed and then work within the reserve policy if possible. He also said that in moving forward with the grant it is very difficult to turn down grant money and then expect to be able to reapply and get it again in the future.

## **9. CITY ATTORNEY'S MATTERS**

### **A) Lease with B-B Redevelopment Team, L.L.C. – Diesel Power Plant**

Mr. Winger asked Mr. Coment to give an update on the Indian River Shores lawsuit.

Mr. Coment reported that Judge Cox did dismiss three (3) of the counts in the four (4) count complaint with the remaining count being the breach of contract. She is allowing the Town of Indian River Shores (IRS) to amend the complaint in which case the City would have 20 days after that amendment to file an answer. He said that Mr. Frost and Mr. Wright are preparing an answer and will be prepared to file it. He said that Judge Cox agreed with the City's position and also the Counsel of the Public Service Commission (PSC) that the PSC has sole jurisdiction over territorial areas. He said IRS has 30-days to appeal that decision.

Mr. Old asked where they were with the County lawsuit.

Mr. Coment said that oral arguments will begin on December 10<sup>th</sup>.

Mr. O'Connor noted in that case it is a determination of a PSC appeal. The City is like the friends to the PSC.

Mr. Coment talked about the B-B Redevelopment (old Diesel Plant) versus the City of Vero Beach. He said they are set for trial in December, but they could get bumped to January. They hope at a minimum to say that there is a pending motion for summary judgment on the tort issue that they claimed against the City because they never did the proper notice of a claim pursuant to Florida Statutes. He is hoping the Court will throw that count out and then they would get down to the contract issues. The City received the keys back to the old Diesel Plant and there still are some lingering issues. He suggested doing an Request for Proposal (RFP) to get some proposals from people who have an interest in the property. What he would like to do now is a formal termination of the lease, reserving all of their rights involved in the lawsuit, but the City would be foregoing any rent as of the date they took back possession of the building. This would terminate the lease completely so there is no doubt that the City has absolute possession to the property. He said there is a lease-hold mortgage on the property, which B-B Development will need to deal with. Unless Council objects, he will continue to pursue this and clean up all the loose ends making sure there is no issue as to who owns the property.

Mr. Ken Daige asked if the fencing was removed from around the entire building.

Mr. O'Connor said the fencing was removed from two (2) sides of the property. The fencing removed was the fencing that belonged to the tenants.

Mr. Daige asked Council to consider fencing the property to keep vandals off of the property.

Mayor Kramer asked Mr. O'Connor if that was something that they could easily do.

Mr. O'Connor said he would look into how much temporary fence would cost. He has asked the Police Department to patrol the building. He reported that their tenant did a Phase II on the property and found an area that has contaminated soil. He has authorized up to \$15,000 be spent to get this taken care of. When they put the property up for sale, he has received approval from their consultant and the person they work with at the State for anyone to be able to call them and ask questions concerning environmental issues.

Mr. Coment was given consent from the City Council to prepare the termination agreement and clear up all the loose ends.

Mrs. Turner asked Mr. Coment to look into whether the City of Vero Beach could possibly regulate in some manner the right-of-way or operations of railroads through City zoning regulations.

Mr. Coment said that he would do some research, but noted that the railroad was not included in the zoning map of the City.

Dr. Michael Rechter stated that he has some interest in this property and developing it for a brewery. His concern was to try to keep the process moving along. He was moving forward with developing another property until he heard this property was going to be available so he has put everything on hold. He said if it turns out that he is not the person chosen to purchase the property that is fine.

Mr. O'Connor stated that he will move forward with the RFP and putting that document together and allowing 45 days for any bidder to do their due diligence on the property.

## **10. CITY COUNCIL MATTERS**

### **A. Old Business**

None

### **B. New Business**

#### **1. Discussion of a Resolution to support HB579**

Mrs. Turner stated that she would like discussion on the Resolution to support HB579. She requested that Council support legislation to require full disclosure of FMPA operations to safeguard ratepayers from speculative practices and mismanagement. As the Board of Directors of Vero Electric they must have the financial information requested in the Bill to effectively manage their utility. She said currently their liabilities are unknown. They have been a member of FMPA for 38 years and they still have no idea what their liabilities are. They have been told they are under water and they owe the public a full report. This Bill will determine the efficiency of this public organization that has had the advantage of utilizing tax free bonds for its development and they need to be accountable. She has provided a copy of the sample Resolution that the County approved this morning at their meeting, which passed 5-0. She noted that the County does represent 60% of the City of Vero Beach electric customers. Also, there has been a companion Bill filed in the Senate on this issue.

Mrs. Turner made a motion to move forward with a similar Resolution to support this Bill. Mr. Howle seconded the motion.

Mr. Kramer stated that he would support this Resolution with one caveat and that is that it helps them with the sale to Florida Power and Light (FPL). He made an amendment

that the Resolution does have the language that this is for the purpose of facilitating their sale to FPL.

Mr. Howle commented that the main purpose of passing this Resolution and of this Bill is to create transparency and allow them to understand what the generation assets are worth.

Mr. Old felt that the idea of having a public servant, like himself, be the only type of Representative should be up to each municipality. He said maybe they would choose someone like Tom Richards who was head of their utilities or someone like Mr. O'Connor or someone like himself depending on the skill set. He felt each municipality should have their own choice. He said it is very hard for a public official who is going to only serve a couple years on the Board to really get up to speed on the issues that surround a utility like FMPA. He hopes that the Bill takes a different format when it is finalized. He said learning the value of the assets really does not help at all. He said the value can move depending on regulations. He did not feel that the Bill was well formatted, however he felt the concept was okay and he would go along with it.

Mr. Winger referred to page 4 of the Bill and read where it states *a balance sheet that reflects assets and liabilities associated with each generation asset, including the plant in services, accumulated additions and removals, net plant, depreciation, operations and maintenance expenses, allocations, and any other material asset and liability categories.* He said this Bill does focus on assets and liabilities, which he thinks is positive.

Mayor Kramer would like to see this move forward as something that is helpful to the citizens of Vero Beach. He said anyone can ask questions of FMPA. They are a public organization and questions can be asked and public record requests can be made to them. The Resolution that the County passed has a clause where they are adding in regulations. He hoped the Resolution would get them someplace more positive than regulations and is something that probably needs to be talked about.

Mr. Winger was okay with the Resolution the way it is.

Mr. Coment stated that he will bring back a Resolution to Council and he would take the "Whereas" clauses and gear them more to the City of Vero Beach.

Mrs. Turner stated that the Resolution is to the advantage of all the members of FMPA. She said the information of what is owed in their contracts is not readily available in the different municipalities. She attended a meeting in Lake Worth where they approved extending the bonds for a project and the Councilmembers didn't understand it increased the debt window by 20-years. She said that is one of the reasons that it is important to have an Elected Official serve on the FMPA Board. She said knowing the value of the assets affects the efficiency of the organization.

Mr. Howle moved that they adopt the Resolution as it is stands.

Mr. Coment explained that he will bring a Resolution to Council for adoption at their next meeting. What they have in front of them tonight is just a sample Resolution from the County.

There was a motion that passed 5-0 to have Mr. Coment draft a Resolution and bring it back to Council.

## **10. INDIVIDUAL COUNCILMEMBERS' MATTERS**

### **A. Mayor Jay Kramer's Matters**

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

Mayor Kramer said that he has been working with the Heritage Center on being able to present their Starry Night Movies. He attended the Clam Bake in Sebastian. He said the Dog Park fundraiser was an amazing event and he attended the Sunshine Summit in Orlando.

### **B. Vice Mayor Randy Old's Matters**

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

Mr. Old recalled at the last meeting, Mrs. Turner asked about the FMPA Municipal Disclosure Training. He said they are disclosing what needs to be done and all the reporting needs are being done by FMPA. He reported that FMPA sold its gas hedges last week, but he doesn't know what the total value of the hedges was sold at. He said now there were no more outstanding gas hedges on the gas they had part ownership of.

### **C. Councilmember Pilar Turner's Matters**

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

Mrs. Turner reported on the Train Wreck Times. She said there has been some good news and that is the fortress passenger railroad faces skeptical investors according to Blumberg news. She read some of the articles that appeared in the newspaper. She commented on the bonds and believed they were being pulled from the market and may reappear as Brightline bonds in the coming year. She said at least there is some delay and the market is reflecting their opposition to this project.

Mrs. Turner commented on the article concerning ORCA that appeared in the newspaper where it talked about finding a source of pollution and identifying an algae that appears early on in the canal area. She said if they can attack that algae before it reaches the

Lagoon they might have a more economical way of removing nutrients and phosphorous from their Lagoon.

Mrs. Turner commented that it seems that Season is in full swing with the amount of charitable events that are taking place. She attended the Press Journal open house at their new building located downtown. She thanked the Police Chief for their wonderful Honor Guard at the Veterans Day Ceremony. She also volunteered to help with Vero Beach's first 10K and 2 mile run that was held this month.

Mrs. Turner wished everyone a Happy Thanksgiving.

**D. Councilmember Richard Winger's Matters**

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

Mr. Winger reported that the Blue Angels are having a pre-visit to Vero Beach on Monday morning.

**E. Councilmember Harry Howle's Matters**

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

Mr. Howle commented that this is his first meeting and he is happy to be here and to serve with all of these fine people. He intends to do the best job that he can do.

**11. ADJOURNMENT**

Tonight's meeting adjourned at 7:59 p.m.

/tv

## Recommended Policy to the City of Vero Beach

It is the recommendation of the Indian River Neighborhood Association that a vision plan be developed for the eventual use of the city-owned property located at the intersection of Indian River Boulevard, the Alma Lee Loy Bridge and 17<sup>th</sup> Street, currently occupied by the Vero Beach Electric Utility, the Vero Beach Water Treatment Plant and the vacant property formerly occupied by the post office annex.

The intent of this vision plan would be to determine the future use for some of the last riverfront and adjacent parcels within the city

We feel it is appropriate to retain the services of a facilitator, much as the original Vision Plan employed professional consultants. This would assure the full participation of all those in the city who have interest in the future use of these lands.

**There are merits to the concept of a rowing facility.**

Please consider these points while you discuss proposed rowing club lease

\*The proposed lease is for private use as a club on public land without consideration to access for the general public at no cost.

\*In 2014 the City of Vero Beach Public Land use referendum won 4,288 votes.

\*The proposed lease does not follow the spirit of the 2014 referendum that protects public lands in the city charter.

\*It could be reasonably discussed that Indian River County has more land available for recreational use.

\*There is no requirement from the City of Vero Beach to approve or enable this private club concept.

\*This is a lease for a not-for-profit that is not open to the general public at no cost.

\*The Dog Park was given a short term lease with many stipulations. They have complied and are public friendly at no cost to the general public.

\*The Museum, Riverside Theatre and Vero Heritage to name a few are open to the general public at no cost and through tickets and memberships.

\* It is unclear if Indian River Drive East will be blocked to park users.

\*How will the current bait fisher people be affected; will they lose their bait-site?

\*Will the floating dock be accessible to the general public at no cost?